

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TRACY B. ERVIN,)	
RODERICK N. WHITE, and)	
ROBERT LADSON,)	
)	
Plaintiffs,)	
)	
)	
vs.)	CASE NO. 3:10-1234
)	JUDGE NIXON/KNOWLES
)	
)	JURY DEMAND
HONEYWELL TECHNOLOGY)	
SOLUTIONS, INC.,)	
)	
Defendant.)	

ORDER

This matter is before the Court upon Plaintiffs’ “Motion to Ascertain Status.” Docket No. 14. The Motion states that Plaintiffs have previously submitted a “Notice of Voluntary Dismissal Without Prejudice of Defendant Bull HN Information Systems, Inc.” (Docket No. 6) and a proposed Order of Dismissal (Docket No. 6-1). While the instant Motion does not specifically so state, Plaintiffs’ counsel apparently seeks to have the Court enter the proposed Order submitted with the Notice of Voluntary Dismissal.

Fed. R. Civ. P. 41(a) provides in relevant part:

(a) Voluntary Dismissal.

(1) By the Plaintiff.

(A) *Without a Court Order.* Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing:

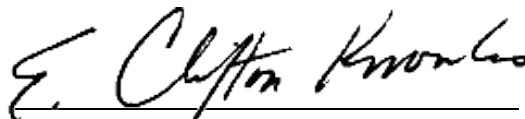
(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment

The “Notice of Voluntary Dismissal Without Prejudice,” was filed by Plaintiffs on January 18, 2011. At the time the Notice was filed, no opposing party had filed (and presumably served) either an Answer or a Motion for Summary Judgment. Plaintiffs’ filing of the Notice under these circumstances was sufficient to dismiss this action against Bull HN Information Systems, Inc., without a Court Order. *Aamot v. Kassel*, 1 F.3d 441, 443, 445 (6th Cir. 1993) (“a Rule 41(a)(1) Notice of Dismissal is self-effectuating,” and “the court has no discretion to deny such a dismissal”).

The proposed Order submitted with the Notice states in relevant part, “this Court hereby orders dismissal of Bull HN Information Systems, Inc. as a party Defendant” Docket No. 6-1. Thus, it would not only be unnecessary for the Court to enter the referenced Order; it also would be erroneous, because Plaintiffs’ claims against Bull have already been dismissed by the filing of the Notice.

The instant “Motion to Ascertain Status” (Docket No. 14) is, therefore, GRANTED, and the status of the Notice of Voluntary Dismissal Without Prejudice is as discussed above.

IT IS SO ORDERED.



E. Clifton Knowles
United States Magistrate Judge